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Request for an advisory opinion of the International Court of Justice on whether the unilateral declaration of independence of Kosovo is in accordance with international law

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Programme budget implications of General Assembly resolution 63/3

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the statement submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly on the programme budget implications of resolution 63/3, by which the General Assembly decided, in accordance with Article 96 of the Charter of the United Nations, to request the International Court of Justice, pursuant to Article 65 of the Statute of the Court, to render an advisory opinion on whether the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo is in accordance with international law (A/C.5/63/15).

2. In paragraph 1 of the statement, it is indicated that, prior to the adoption of resolution 63/3, the General Assembly was provided with a statement of programme budget implications informing it that resources had been provided in the programme budget for the biennium 2008-2009 for the Court to provide advisory opinions as requested by organs of the United Nations and specialized agencies. However, it is also indicated that, owing to the complexity of the question on which the Court was requested to render an advisory opinion, it was anticipated that adoption of the draft resolution would give rise to additional resource requirements and that a detailed

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statement of programme budget implications would be submitted to the General Assembly for its consideration during its current session.

3. A brief description and breakdown of the estimated resource requirements is provided in paragraph 4 of the statement. The Advisory Committee was informed that this had been done on the basis of estimates provided by the International Court of Justice, its experience in previous cases, in particular with respect to the advisory opinion requested on the legal consequences of the construction of a wall in the Occupied Palestinian Territory (resolution ES-10/14), as well as the high profile and sensitivity of the request. The Committee notes that the requirements relate to three main areas, which include the translation, reproduction, communication and transmission of documents ($243,000); security requirements ($66,500), including security support during the proceedings and taking into account the assistance of the host country authorities and the Carnegie Foundation and the secondment of security personnel from the International Tribunal for the Former Yugoslavia; and media coverage ($125,500), including the costs of video streaming software, equipment set-up and live streaming and the engagement of an audio/video technician, as well as equipment rental for audio-visual support and the press centre.

4. Upon enquiry, the Advisory Committee was informed that the Court currently operates a single press room with a very limited capacity and that the Court intended to proceed, mutatis mutandis, as it had in the case of its proceedings in February and July 2004 related to the construction of a wall in the Occupied Palestinian Territory, when live media coverage was provided. However, the Advisory Committee was not provided with sufficient information to enable it to assess the basis for the requests for additional requirements for media coverage or security. **The Committee is of the view that, given the resources allocated to the International Court of Justice under section 7 of the programme budget, requests for additional requirements should be accompanied by comprehensive information and justification. The Committee therefore recommends that the Secretary-General provide further justification in this regard in the context of the proposed programme budget for the biennium 2010-2011.**

5. The Committee notes that, of the total amount estimated ($435,000), an amount of $130,000 is required for 2009 in order to process initial documentation and move forward with court proceedings. It is indicated in paragraph 7 of the statement that, after review of the provisions under section 7, International Court of Justice, of the programme budget for the biennium 2008-2009, the Secretariat wishes to inform the General Assembly that efforts will be made to accommodate the estimated additional requirements of $130,000 in 2009 within the existing appropriation for the biennium. Actual expenditures will be reported in the context of the second performance report for the biennium 2008-2009, and the requirements for the biennium 2010-2011 will be considered in the context of the proposed programme budget for that biennium.

6. **Bearing in mind what is stated in paragraph 9 of the statement of the Secretary-General (A/C.5/63/15) and in paragraph 4 above, the Fifth Committee may wish to inform the General Assembly that the adoption of its resolution 63/3 will entail additional requirements amounting to $435,000 in respect of the International Court of Justice and that no additional appropriation is being sought for 2009, as efforts will be made to accommodate the estimated requirements of $130,000 within the programme budget for the**

biennium 2008-2009; actual expenditures will be reported in the context of the second performance report for the same biennium (see para. 5 above). The Advisory Committee trusts that adequate justification will be provided in the context of the proposed programme budget for the biennium 2010-2011 relating to the areas indicated in paragraph 4 above.